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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

John Russell Riccitelli & Gina R. Riccitelli,) Case No.: 10-50976-ASW-13
Debtors,)
SS Nos. XXX-XX-4434 & 6924)
Date:
Time:
Place:

MOTION TO VALUE REAL PROPERTY/COLLATERAL OF CENLAR FSB, INC.

Debtors, John and Gina Riccitelli, by and through their attorney of record, move the Court herein to value the REAL PROPERTY/COLLATERAL securing Debtors' indebtedness to Cenlar FSB, Inc, to wit the debtor's Second Deed of Trust on the real property located at 1371 Carrie Lee Way San Jose, CA 95136. This motion is based on the following:

1. Debtors value the collateral at \$0.00 with the balance of the loan to be treated as general unsecured class 7.
2. Against the property is a first deed of trust with Bank of America in the approximate amount of \$546,272.59.
3. Against the property is a second deed of trust with CENLAR FSB, Inc., in the amount of \$78,744.79.
4. Against the property there are also yearly property taxes which come due in favor of Santa Clara County in the amount of \$6,302.62. Those taxes are current and paid through impound.

1 5. The debtors value the property at \$530,000.00. Refer to the Declarations of Debtors filed herewith.

2 6. The total amount of unavoidable liens on the real property is \$ 552,575.21

3 Fair Market Value \$530,000.00

4 First Deed of Trust \$546,272.59

5 Property Taxes Owed 6,302.62

6 Net Equity (negative) <-\$22,575.21>

7 Therefore, there is insufficient equity to secure the second deed of trust.

8
9 **POINTS AND AUTHORITIES**

10 Debtors may testify regarding the value of the property owned by the Debtor and have done so through the
11 schedules and Plan. Fed. R. Evid. 701: So. Central Livestock Dealers, Inc. v Security State Bank, 614 F.2d 1056,
12 1061 (5th Circuit 1998).

13 An adversary complaint is not necessary to value this collateral. In re Laskin 98 D.A.R. 8483 (B.A.P. 9th
14 Cir. 1998).

15 Based on the foregoing, Debtors respectfully request that this Motion be granted.

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17 Dated: February 15, 2010

/s/ Guy David Chism, Esq.

Guy David Chism
Attorney for Debtors